

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted December 4, 2018 employment incident.

FACTUAL HISTORY

On November 3, 2020 appellant, then a 41-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on December 4, 2018 she injured her right arm when she grabbed a patient who attempted to leave the premises while in the performance of duty. She explained that the patient became agitated, started to swing his cane at the staff, and attempted to leave the hospital. Appellant asserted that she grabbed him at the same time the police attempted to subdue him by placing him on the bed which jerked her arm to the left and pulled her down with the patient onto the bed. She noted that she initially experienced immediate pain to her wrist and arm, which worsened with certain activities and continued days later. Appellant stopped work on December 7, 2018.

In a November 18, 2020 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a factual questionnaire for her completion. OWCP afforded appellant 30 days to respond. No further evidence was submitted.

By decision dated December 21, 2020, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted December 4, 2018 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a December 4, 2018 report, Dr. Jason T. Hildebrant, an internist, related that appellant was involved in a work-related altercation with a patient who was trying to leave the hospital. He summarized her account that the patient became agitated and aggressive, and that she tried to redirect him back to his bed while a coworker relieved him of his cane. Dr. Hildebrant noted that appellant was unsure whether she injured her arm from being hit by the cane or by the patient. Appellant reported having aching pain in her right forearm. Dr. Hildebrant conducted a physical examination and diagnosed right arm pain.

A December 15, 2018 x-ray of the right wrist revealed no acute osseous injury. A right hand x-ray of even date demonstrated no fracture or dislocation. A right forearm x-ray of even date revealed mild degenerative changes.

In an August 31, 2020 medical report, Dr. Glen A. McClung, a Board-certified orthopedic surgeon, noted that appellant presented with right shoulder pain after she fell on her right shoulder. He conducted a physical examination and diagnosed a possible right shoulder partial rotator cuff tear.

In a November 18, 2020 medical report, Dr. McClung reported that appellant sustained a work-related injury of the right shoulder "back in December" when a patient grabbed and pulled her arm. He noted that she reinjured her right shoulder "in April." Dr. McClung conducted a

physical examination and diagnosed probable right shoulder distal clavicle osteolysis, right shoulder impingement, and a possible partial rotator cuff tear.

A November 30, 2020 magnetic resonance imaging (MRI) scan of the right shoulder revealed moderate-to-severe supraspinatus and mild infraspinatus tendinosis without tear as well as mild acromioclavicular (AC) joint osteoarthritis with acromial morphology.

In a December 2, 2020 medical report, Dr. McClung conducted a physical examination and diagnosed right shoulder impingement, AC arthrosis, and rotator cuff tendinitis.

In a December 10, 2020 form report, Dr. McClung noted that appellant's condition began in April 2020 and diagnosed right shoulder pain, rotator cuff tendonitis, impingement, and AC arthrosis. He advised that she was scheduled for right shoulder surgery on December 28, 2020.

In a December 28, 2020 operative report, Dr. McClung noted that appellant underwent surgery, including right shoulder arthroscopies with subacromial decompression, distal clavicle excision, and extensive debridement. He diagnosed right shoulder impingement, AC arthrosis, bursitis, and synovitis.

In a letter dated January 12, 2021, appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on April 19, 2021.

By decision dated June 21, 2021, the hearing representative affirmed, as modified, the December 21, 2020 decision, finding that the medical evidence submitted was sufficient to establish a diagnosed medical condition. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted December 4, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the

³ *Supra* note 1.

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted December 4, 2018 employment incident.

In his November 18 2020 medical report, Dr. McClung noted that appellant sustained a work-related injury of the right shoulder “back in December” when a patient grabbed and pulled her arm. He also indicated that she reinjured her right shoulder “in April.” Dr. McClung diagnosed right shoulder distal clavicle osteolysis, right shoulder impingement, and a possible partial rotator cuff tear. While his report is generally supportive of causal relationship, he did not offer any explanation or medical rationale as to how appellant could have developed the diagnosed right shoulder conditions due to the accepted December 4, 2018 employment incident. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

medical rationale explaining how a given medical condition is related to the accepted employment incident.¹⁰ For these reasons, this report is insufficient to establish the claim.

In his reports dated December 2, 10, and 28, 2020, Dr. McClung provided multiple diagnoses related to appellant's right shoulder and arm. However, he did not provide an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value.¹¹ Thus, these reports are also insufficient to establish appellant's claim.

In an August 31, 2020 medical report, Dr. McClung noted that appellant fell on her right shoulder and diagnosed a possible right shoulder partial rotator cuff tear. However, he failed to provide a firm diagnosis in connection with the accepted December 4, 2018 employment incident. The Board has long held that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.¹² Thus, this report is insufficient to establish appellant's claim.

Dr. Hildebrant, in his December 4, 2018 medical report, indicated that appellant was involved in a work-related altercation with a patient who was trying to leave the hospital while threatening staff members with his cane. He diagnosed right arm pain. However, the Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.¹³ A medical report lacking a firm diagnosis is of no probative value.¹⁴ This report is, therefore, insufficient to establish a diagnosed medical condition causally related to the accepted employment incident.

The remaining medical evidence includes radiographic studies. The Board has held, however, that diagnostic studies, standing alone, lack probative value and are, therefore, insufficient to establish the claim.¹⁵

¹⁰ *B.H.*, Docket No. 20-077 (issued October 21, 2020); *see S.Y.*, Docket No. 20-0470 (issued July 15, 2020); *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

¹¹ *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *A.C.*, Docket No. 21-0087 (issued November 9, 2021); *D.B.*, Docket No. 19-0514 (issued January 27, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *W.G.*, Docket No. 20-0439 (issued July 13, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

¹³ *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

¹⁴ *C.S., id.*; *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

¹⁵ *J.E.*, Docket No. 21-0956 (issued November 23, 2021); *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019).

As the medical evidence of record is insufficient to establish that appellant's diagnosed right arm condition is causally related to the accepted December 4, 2018 employment incident, the Board finds that appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted December 4, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 21, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 11, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board